

**REPORT OF THE AUDIT OF THE  
CARTER COUNTY  
CLERK**

**For The Year Ended  
December 31, 2009**



**CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS  
[www.auditor.ky.gov](http://www.auditor.ky.gov)**

**209 ST. CLAIR STREET  
FRANKFORT, KY 40601-1817  
TELEPHONE (502) 564-5841  
FACSIMILE (502) 564-2912**



## **EXECUTIVE SUMMARY**

### **AUDIT EXAMINATION OF THE CARTER COUNTY CLERK**

**For The Year Ended  
December 31, 2009**

The Auditor of Public Accounts has completed the Carter County Clerk's audit for the year ended December 31, 2009. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

#### **Financial Condition:**

Excess fees decreased by \$80,163 from the prior year, resulting in excess fees of \$585 as of December 31, 2009. Revenues decreased by \$942,755 from the prior year and expenditures decreased by \$862,592.

#### **Report Comment:**

- The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed

#### **Deposits:**

The County Clerk's deposits were insured and collateralized by bank securities.



## CONTENTS

PAGE

INDEPENDENT AUDITOR'S REPORT .....	1
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS .....	3
NOTES TO FINANCIAL STATEMENT .....	7
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS .....	13
COMMENT AND RECOMMENDATION .....	17





CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Charles Wallace, Carter County Judge/Executive  
The Honorable Mike Johnston, Carter County Clerk  
Members of the Carter County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Carter County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2009, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated July 14, 2010 on our consideration of the Carter County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Charles Wallace, Carter County Judge/Executive  
The Honorable Mike Johnston, Carter County Clerk  
Members of the Carter County Fiscal Court

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

- The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Carter County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen  
Auditor of Public Accounts

July 14, 2010



CARTER COUNTY  
 MIKE JOHNSTON, COUNTY CLERK  
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

State Grants	\$	6,420
--------------	----	-------

State Fees For Services		10,765
-------------------------	--	--------

Fiscal Court		16,331
--------------	--	--------

Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$ 952,358	
------------------------	------------	--

Usage Tax	2,175,138	
-----------	-----------	--

Tangible Personal Property Tax	1,567,943	
--------------------------------	-----------	--

Other-

Marriage Licenses	8,520	
-------------------	-------	--

Deed Transfer Tax	23,700	
-------------------	--------	--

Delinquent Tax	236,485	4,964,144
----------------	---------	-----------

Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts	11,555	
---------------------------------	--------	--

Real Estate Mortgages	27,983	
-----------------------	--------	--

Chattel Mortgages and Financing Statements	77,911	
--	--------	--

Powers of Attorney	1,058	
--------------------	-------	--

Affordable Housing Trust	26,172	
--------------------------	--------	--

All Other Recordings	24,631	
----------------------	--------	--

Charges for Other Services-

Candidate Filing Fees	1,100	
-----------------------	-------	--

Copywork	9,478	
----------	-------	--

Postage	1,420	
---------	-------	--

Sheriff's Inspections	2,590	183,898
-----------------------	-------	---------

Other:

Lien Fees	17,050	
-----------	--------	--

Notary Fees	15,844	
-------------	--------	--

Refunds and Overpayments	75,126	
--------------------------	--------	--

Miscellaneous	3,202	111,222
---------------	-------	---------

The accompanying notes are an integral part of this financial statement.

CARTER COUNTY  
 MIKE JOHNSTON, COUNTY CLERK  
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
 For The Year Ended December 31, 2009  
 (Continued)

Revenues (Continued)

Interest Earned	\$ 652
Total Revenues	\$ 5,293,432

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$ 642,324
Usage Tax	2,108,100
Tangible Personal Property Tax	660,202

Licenses, Taxes, and Fees-

Marriage Licenses	840
Delinquent Tax	30,397
Legal Process Tax	23,241
Affordable Housing Trust	26,172
	\$ 3,491,276

Payments to Fiscal Court:

Tangible Personal Property Tax	96,324
Delinquent Tax	20,201
Deed Transfer Tax	22,434
Election Expense	3,845
	142,804

Payments to Other Districts:

Tangible Personal Property Tax	748,686
Delinquent Tax	130,562
	879,248

Payments to Sheriff 5,100

Payments to County Attorney 30,447

Operating Expenditures and Capital Outlay:

Personnel Services-	
Deputies' Salaries	297,737

The accompanying notes are an integral part of this financial statement.

CARTER COUNTY  
 MIKE JOHNSTON, COUNTY CLERK  
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
 For The Year Ended December 31, 2009  
 (Continued)

Expenditures (Continued)

Operating Expenditures and Capital Outlay: (Continued)

Employee Benefits-

Employer's Share Social Security	\$	28,112
Employer's Share Retirement		56,384
Employer's Paid Health Insurance		98,792

Contracted Services-

Library and Archives Grant		6,420
Printing and Binding		10,738

Materials and Supplies-

Office Supplies		13,695
-----------------	--	--------

Other Charges-

Advertising		2,143
Bonds		409
Computer Support		22,519
Conventions and Travel		7,776
Copiers		7,659
Dues		1,920
Election Commissioners		5,558
Equipment Repair		2,346
Postage		7,088
Refunds		75,569
Rent		3,000
Telephone		5,899
Miscellaneous		5,415

Capital Outlay-

Office Equipment	1,813	\$	660,992
------------------	-------	----	---------

Total Expenditures			\$	<u>5,209,867</u>
--------------------	--	--	----	------------------

The accompanying notes are an integral part of this financial statement.

CARTER COUNTY  
 MIKE JOHNSTON, COUNTY CLERK  
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
 For The Year Ended December 31, 2009  
 (Continued)

Net Revenues		\$	83,565
Less: Statutory Maximum			<u>76,734</u>
Excess Fees			6,831
Less: Expense Allowance	\$	3,600	
Training Incentive Benefit		<u>2,646</u>	<u>6,246</u>
Excess Fees Due County for 2009			585
Payments to Fiscal Court - February 19, 2010		307	
June 21, 2010		<u>278</u>	<u>585</u>
Balance Due Fiscal Court at Completion of Audit		\$	<u><u>0</u></u>

The accompanying notes are an integral part of this financial statement.

CARTER COUNTY  
NOTES TO FINANCIAL STATEMENT

December 31, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2009 services
- Reimbursements for 2009 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2009

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

CARTER COUNTY  
NOTES TO FINANCIAL STATEMENT  
December 31, 2009  
(Continued)

Note 2. Employee Retirement System

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Carter County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1) (d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Carter County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

CARTER COUNTY  
NOTES TO FINANCIAL STATEMENT  
December 31, 2009  
(Continued)

Note 4. Grant

In December 2008, the Carter County Clerk received a local records microfilming grant from the Kentucky Department for Libraries and Archives in the amount of \$6,420. Funds totaling \$6,420 were expended during the year. The unexpended grant balance was \$0 as of December 31, 2009.

Note 5. Leases

- A. The Office of the County Clerk was committed to a lease agreement with the United States Postal Service for office space. The agreement requires a monthly payment of \$250 for 24 months to be completed on October 31, 2010. The total balance of the agreement was \$2,500 as of December 31, 2009.
- B. The Office of the County Clerk was committed to a lease agreement with the Toshiba Financial Services for a copier. The agreement requires a monthly payment of \$218 for 36 months to be completed on April 30, 2011. The total balance of the agreement was \$3,488 as of December 31, 2009.

Note 6. Software Support Agreement

The Office of the County Clerk was committed to an agreement with the Data Records Management Services for software support services. The agreement requires a monthly payment of \$1,894 and automatically renews each year for an additional 12 months.

THIS PAGE LEFT BLANK INTENTIONALLY



REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS





CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Charles Wallace, Carter County Judge/Executive  
The Honorable Mike Johnston, Carter County Clerk  
Members of the Carter County Fiscal Court

Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Carter County Clerk for the year ended December 31, 2009, and have issued our report thereon dated July 14, 2010. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Carter County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Carter County Clerk's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards  
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Carter County Clerk's financial statement for the year ended December 31, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matter that is required to be reported under Government Auditing Standards and which is described in the accompanying comment and recommendation.

- The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed

The Carter County Clerk's response to the finding identified in our audit is included in the accompanying comment and recommendation. We did not audit the County Clerk's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Carter County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen  
Auditor of Public Accounts

July 14, 2010

COMMENT AND RECOMMENDATION



CARTER COUNTY  
MIKE JOHNSTON, COUNTY CLERK  
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2009

STATE LAWS AND REGULATIONS:

The County Clerk Should Require All Taxpayers To Pay Any Delinquent Ad Valorem Taxes Owed

---

During our audit, it came to our attention the County Clerk did not require all taxpayers to pay their delinquent ad valorem taxes, when issuing/renewing current registrations. KRS 186A.145 states, “A county clerk shall not process an application for Kentucky title and registration from or to any Kentucky resident who has a delinquent motor vehicle ad valorem property tax account.” Also, KRS 186.021(1) states, “a county clerk shall not issue a replacement plate, decal, or registration certificate...or a registration for renewal to any person who on January 1 of any year owned a vehicle on which...ad valorem taxes are delinquent.” By not collecting the delinquent taxes due, the state, county, school, and other taxing districts could potentially lose thousands of tax dollars to which they are entitled. We recommend the County Clerk comply with KRS 186A.145 and KRS 186.021 and ensure no registration is issued or renewed until all delinquent taxes associated with it are paid as required. We are referring this matter to the Office of the Attorney General for further review.

*County Clerk's Response:*

*This problem has been addressed with all motor vehicle personnel. The code that was used by motor vehicle to bypass delinquent ad valorem taxes, that was later collected or removed by the PVA, has been removed from the computers and can no longer be used.*

